

Remarks

Claims 1 to 26, 29 to 32 and 34 are currently pending in this application. No amendments to the claims have been made.

1. Corresponding Canadian Patent No. 2,474,143

Attached for the Examiner's consideration is a copy of Canadian Patent No. 2,474,143, issued on March 14, 2006, which corresponds to the subject application. Applicants respectfully bring to the Examiner's attention that the same art has been reviewed by the Canadian Examiner in the corresponding Canadian case, with claims virtually identical to the claims currently pending in the subject invention.

2. Rejections under 35 U.S.C. § 103(a)

A. Mandzsu in view of Altshuler and Lefebvre as evidenced by Miyashita

Claims 1 to 6, 11 to 15, 20 to 22, 24, 30 and 34 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent No. 6,444,080 to Mandzsu *et al.* ("Mandzsu") in view of U.S. Patent No. 6,132,844 to Altshuler ("Altshuler") and U.S. Patent No. 5,732,745 to Lefebvre *et al.* ("Lefebvre"), as evidenced by U.S. Patent No. 5,236,483 to Miyashita *et al.* ("Miyashita").

The Examiner relies on Mandzsu to demonstrate a thermoplastic film which is roughened by polymer particles in order to prevent packaging films from skidding. The Examiner asserts the Mandzsu films as having a thickness of 6 mil and an anti-skid particle size of 100 to 200 microns.

The Examiner acknowledges that Mandzsu fails to teach that the described anti-skid additive has a melt temperature of greater than 500°C. Altshuler is relied upon to teach that the anti-skid additives can be glass which, according to the Examiner, has a melt temperature of greater than 500°C as allegedly taught by Miyashita. The Examiner further acknowledges that Mandzsu in view of Altshuler, as evidenced by Miyashita, fails to teach that the described films are elastomeric, but relies on Lefebvre to teach that an elastomeric film having Applicants' claimed characteristics, but lacking an anti-skid additive, was known as of the filing date of the subject application.

Applicants respectfully disagree with the Examiner's rejection of claims 1 to 6, 11 to 15, 20 to 22, 24, 30 and 34 over the above-cited combination of documents for at least the following reasons. Nothing in the cited documents either teaches or suggests the successful incorporation of an anti-skid additive into an elastomeric film. As described throughout the subject application, problems associated with the

incorporation of anti-skid additive into an elastomeric film include lensing and tearing. Applicants' invention is based on the unexpected finding that it is possible to incorporate an anti-skid additive in an elastomeric film, where said film does not form tears or micro-perforations when in use, thus solving the above-noted problem. Applicants believe that such a film is clearly not obvious in view of any documents cited by the Examiner. In particular, Applicants have identified the required size and physical characteristics of the anti-skid additive that can be incorporated into an elastomeric film, while allowing the film to remain stretchable without being susceptible to the formation of micro-perforations or lensing (see, for example, page 8, line 29 to page 9, line 2 of the specification). The particular amount of anti-skid additive included in the elastomeric film is selected based on the required frictional coefficient for the film's intended purpose, and to ensure that the film remains stretchable without being susceptible to lensing, tearing or micro-perforations. Such a result is not taught or suggested in any of the cited documents, either alone in or combination. Accordingly, Applicants respectfully request that this rejection be withdrawn.

B. Mandzsu in view of Altshuler and Lefebvre as evidenced by Miyashita and further in view of Erderly

Claims 7 to 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mandzsu in view of Altshuler and Lefebvre as evidenced by Miyashita and further in view of U.S. Patent No. 5,451,450 to Erderly *et al* ("Erderly"). The Examiner acknowledges that Mandzsu, Altshuler, Lefebvre, and Miyashita fail to teach a polyolefin plastomer having a density of 0.910 g/cm³ or lower, but relies on Erderly for teaching such a polyolefin plastomer.

Applicants respectfully disagree with the Examiner's rejection of Applicants' claims 7 to 10 over the above-cited combination of documents for at least the following reason. Erderly does not add any teaching or suggestion that an anti-skid additive could be successfully incorporated into an elastomeric film that remains stretchable and is not susceptible to lensing, tearing or micro-perforations. Therefore, the disclosure of Erderly does not cure the deficiencies present in Mandzsu, Altshuler, Lefebvre, and Miyashita, either alone or in combination. Accordingly, Applicants respectfully request that this rejection be withdrawn.

C. Mandzsu in view of Altshuler and Lefebvre as evidenced by Miyashita and further in view of Falla

Claims 16 to 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mandzsu in view of Altshuler and Lefebvre as evidenced by Miyashita and further in view of U.S. Patent No. 5,879,768 to Falla *et al.* ("Falla"). The Examiner acknowledges that Mandzsu, Altshuler, Lefebvre, and Miyashita fail to teach use of at least one layer of the film comprises low density polyethylene having a density between 0.910 and 0.930 g/cm³, or a melt index of from 0.1 to 30 g/10 minutes, but relies on Falla for teaching the use of such a low density polyethylene.

Applicants respectfully disagree with the Examiner's rejection of Applicants' claims 16 to 19 over the above-cited combination of documents for at least the following reason. Falla does not teach or suggest the successful incorporation of an anti-skid additive into an elastomeric film that remains stretchable and is not susceptible to lensing, tearing or micro-perforations. Therefore, Falla does not cure the deficiencies present the cited documents, either alone or in combination. Accordingly, Applicants respectfully request that this rejection be withdrawn.

D. Mandzsu in view of Altshuler and Lefebvre as evidenced by Miyashita and further in view of Karaiwa

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mandzsu in view of Altshuler and Lefebvre as evidenced by Miyashita and further in view of U.S. Patent No. 6,706,385 to Karaiwa ("Karaiwa"). The Examiner acknowledges that Mandzsu, Altshuler, Lefebvre and Miyashita fail to teach that the anti-skid additive is an ultrahigh molecular weight polyethylene, but relies on Karaiwa for teaching an ultrahigh molecular weight polyethylene as being equivalent to polypropylene. The Examiner asserts that this disclosure would be suitable for providing an anti-skid particle with a diameter of 1 to 100 microns having a melt temperature of greater than 500°C as defined in the Applicants' application. Further, the Examiner asserts that it would be obvious to use ultrahigh molecular weight polyethylene particles in place of the polymeric particles of Mandzsu in order to provide anti-skid particles having the same characteristics as those recited in Applicants' claims.

Applicants respectfully disagree with the Examiner's rejection of Applicants' claim 23 over the above-cited combination of documents for at least the following reason. The combination of Mandzsu, Altshuler, Lefebvre, Miyashita and Karaiwa neither teaches nor suggests the successful incorporation of an anti-skid additive in an elastomeric film. In particular, the cited documents, either alone or in combination,

neither contemplate nor solve the problems associated with the incorporation of anti-skid additive in an elastomeric film, let alone an elastomeric film that remains stretchable and is not susceptible to lensing, tearing or micro-perforations. Accordingly, Applicants respectfully request that this rejection be withdrawn.

E. Mandzsu in view of Altshuler and Lefebvre as evidenced by Miyashita and further in view of Anthony

Claims 25 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mandzsu in view of Altshuler and Lefebvre as evidenced by Miyashita and further in view of U.S. Patent No. 4,399,173 to Anthony *et al.* ("Anthony"). The Examiner acknowledges that Mandzsu, Altshuler, Lefebvre and Miyashita fail to teach a film that consists of three layers – an inside layer, a core layer and an outside layer–, but relies on Anthony for this teaching.

Applicants respectfully disagree with the Examiner's rejection of Applicants' claims 25 and 29 over the above-cited combination of documents for at least the reason that the documents, either alone or in combination, neither teach nor suggest the successful incorporation of an anti-skid additive into an elastomeric film that remains stretchable and is not susceptible to lensing, tearing or micro-perforations. Accordingly, Applicants respectfully request that this rejection be withdrawn.

F. Mandzsu in view of Altshuler and Lefebvre as evidenced by Miyashita and further in view of Erickson

Claims 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mandzsu in view of Altshuler and Lefebvre as evidenced by Miyashita and further in view of U.S. Patent No. 4,954,124 to Erickson *et al.* ("Erickson").

The Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have used the gusseted film bag design of Erickson along with the inwardly folded lip at each edge of the film panels, for the gusseted film bag of Mandzsu, Altshuler, Lefebvre and Miyashita in order to provide a packaging film bag which is capable of standing up by itself before, during and after being filled as taught by Erickson.

Applicants respectfully disagree with the Examiner's rejection of Applicants' claims 31 and 32 over the above-cited combination of documents for the following reason. Erickson provides nothing that would have suggested to a person of ordinary skill in the art that an anti-skid additive could have been

successfully incorporated into an elastomeric film, irrespective of the folded configuration of the film, let alone a pre-folded gusseted film that remains stretchable and is not susceptible to lensing, tearing or micro-perforations.

Therefore, Applicants submit that a person of ordinary skill in the art would not be motivated to combine the teachings of the cited documents to arrive at the successful incorporation of an anti-skid additive in an elastomeric film as claimed by Applicants. Moreover, even if such a person were motivated to combine the teachings of the cited documents, there is no teaching or suggestion in these documents as to how to arrive at the successful incorporation of an anti-skid additive into an elastomeric film wherein the film remains stretchable and is not susceptible to lensing, tearing or micro-perforations. Accordingly, Applicants respectfully request that this rejection be withdrawn.

3. **Allowable claim**

Applicants note that claim 26 has been deemed allowable by the Examiner if rewritten to overcome the rejection under 35 U.S.C. § 112, second paragraph and to include the limitation of the base claim and all intervening claims.

4. **Conclusion**

Upon consideration of the foregoing, it will be recognized that Applicants have fully and appropriately responded to all of the Examiner's rejections. Accordingly, all claims are believed to be in proper form in all respects and a favorable action on the merits is respectfully requested. Should the Examiner feel that there are any issues outstanding after consideration of this amendment, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution.

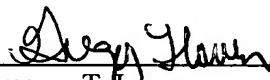
Except for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or to credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. 1.136(a)(3).

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Respectfully submitted,

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